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THREE OFFICIALS AT FORMER ENVIRONMENTAL COMPANY SENTENCED FOR CLEAN WATER ACT VIOLATIONS

PRESS RELEASE

INDIANAPOLIS - Joseph T. Biggio, 51, Illinois, Michael R. Milem, 61, Carmel, Ind., and Mark R. Snow, 44, Brazil, Ind., were sentenced by U.S. District Judge Sarah Evans Barker following their guilty pleas to Clean Water Act violations, announced Josh Minkler, First Assistant United States Attorney for the Southern District of Indiana. All three men received three years probation. This case was the result of a several month investigation by the United States Environmental Protection Agency, Criminal Investigation Division, the Indiana Department of Environmental Management, Criminal Investigation Section, and the Indiana Department of Natural Resources, Criminal Division.

Ecological Systems, Inc. (ESI) located at 4910 W. 86th Street, Indianapolis, was a company which was in the business of accepting and treating industrial waste which contained numerous toxic pollutants such as oil, lubricants, coolants, landfill leachate, benzene, toluene, ethyl-benzene, and xylene. ESI had purchased the facility in which they operated from a company who formerly used the facility only for treating storm water, not the heavy pollutants which ESI accepted. ESI began doing business at the W. 86th Street facility in approximately 2000. The facility developed numerous problems over the years of doing business, including allowing several of its storage tanks to become filled with sludge, equipment breaking down and not being replaced, and inadequate equipment.

On February 11, 2009, a rainfall that occurred caused the ESI facility to fill with water and, as a result of having inadequate storage space, ESI illegally discharged approximately 300,000 gallons of untreated oily wastewater into the sewer which went straight to the City of Indianapolis without the city knowing what it was receiving. By the next day, the city had received numerous complaints from residents downstream from ESI who noticed oil coming up through the sewer and onto their yards. Michael Milem and Mark Snow were both involved in

making the decision to illegally bypass the ESI treatment system completely and discharge directly to the sewer. Joseph Biggio had been the Executive Vice President at ESI between 2001 and 2007, and was involved in two schemes in violation of the Clean Water Act. One scheme involved ESI officials "cherry picking" samples, that is, taking multiple samples but only reporting the most favorable ones to the City on the required monthly report. The second scheme involved "wet weather" sampling which involved ESI officials taking samples during rainfall events in an attempt to dilute the samples. Biggio then signed the falsified monthly reports which were sent to the City of Indianapolis over a period of several years.

"Accurate information is essential for federal, state and local governments to protect the public and the environment," said Randall Ashe, Special Agent-in-Charge of EPA's criminal enforcement program in Chicago. "In this case, the defendants' repeated illegal actions to hide the plant's true capacity and inability to handle spills and excess rain resulted in damaged property and cost homeowners time and money. Individuals who try to hide the truth will be prosecuted."

According to Assistant U.S. Attorney Gayle L. Helart, who prosecuted the case for the government, Biggio was ordered to pay a fine of \$15,000, and Milem and Snow were each ordered to pay a fine of \$5,000. Milem was placed on home detention for six months. Snow was ordered to give eight hours of community service per month for the three years he is on probation. Snow and Biggio were ordered to seek graduate classes in which to retell the circumstances of their arrest and conviction for the benefit of students learning environmental law and compliance. Judge Barker noted in her remarks during sentencing that all three men were working for a company which appeared to be negligent in its daily operations regarding environmental compliance. She observed that this went on for so long that the events of February 11, 2009, were completely foreseeable. Judge Barker further noted that the types of pollutants involved are silent killers against which people have no defense, which is why it was so important for these facilities to be highly regulated. These individuals violated the public's trust in the way they operated the facility. The Court also noted that ESI had shut down in October 2010, much to the satisfaction of the surrounding community.

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